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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,315	07/30/2003	Rob Jason Evans	EVAN-0973	1892
23123	7590	04/16/2007	EXAMINER	
SCHMEISER OLSEN & WATTS 18 E UNIVERSITY DRIVE SUITE # 101 MESA, AZ 85201			JOHNSON, BLAIR M	
			ART UNIT	PAPER NUMBER
			3634	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/631,315	EVANS, ROB JASON
	Examiner Blair M. Johnson	Art Unit 3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 January 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,6-20 and 60-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6,17 and 62 is/are allowed.
- 6) Claim(s) 1,3,4,7-16,18-20,60 and 63 is/are rejected.
- 7) Claim(s) 2 and 61 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .                                                        | 6) <input type="checkbox"/> Other: _____ .                        |

***Claim Rejections - 35 USC § 112***

Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims recite “second”, “third” , etc. characteristics, which is confusing since a “first” (preceding) characteristic, has not been recited in claim 7, from which these claims depend.

***Claim Rejections - 35 USC § 103***

Claims 1,3,7-11 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sears et al in view of Nakano et al.

Sears discloses a controller 130, door 112, input drive 120, and clutch 122. What is not shown is the flex plate type of clutch. However, such are well known as illustrated by Nakano et al. It would have been obvious to provide Sears et al with such a conventional clutch. Sears et al has back power and senses fumes, etc. Regarding the clutch failure sensor, if the clutch fails, the door falls and inherently alerts the controller.

Claims 4,12-16,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sears et al in view of Nakano et al and further in view of Crimmins.

Crimmins discloses a fire door that incorporates position monitors, back-up power sources, obstruction sensors, audible and visual alarms, open, close, stop, test and reset buttons and modes, etc., all of which could easily be incorporated with the Sears et al door so as to fully automate the door.

***Allowable Subject Matter***

Claims 2 and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6, 17 and 62 are allowed.

***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

Initially, it is noted that Applicant has not responded to the rejection under 35 USC 112(2).

Regarding the art rejections, Applicant initially points out that he believes that element 112 in Sears et al is not a fire door and that element 134 is a door. The Examiner would like to point out that the term "fire" before "door" is broad and completely subjective in the absence of any other defining structure. Any door that, for example, prevents one from entering a room that has a fire therein may be considered a "fire door". In addition, the door of Sears is activated in response to sensing fumes, such as those caused by a fire, thereby clearly rendering it a "fire door". Element 134, asserted by Applicant to be the "door" is a part of the housing 132 and is not relied upon by the Examiner to meet the claimed subject matter.

Applicant's other rebuttal of the rejection to independent claim 1 involves the alleged impropriety of combining Sears et al and Nakano et al. More specifically, Applicant states that Nakano et al does teach a clutch as recited but the clutch is not used in combination with a fire door system. The Examiner agrees with assessment of

Nakano et al. However, Sears et al does provide a clutch, as pointed out above. The Nakano et al clutch is a generic clutch which has numerous features that render it desirable and which further is not limited as to its many uses and, consequently, is usable with infinite devices that require a clutch. Sears et al constitutes such a device and merely replacing his clutch with that of Nakano et al's clutch would have been well within the purview of one of ordinary skill in the art.

Lastly, the only other specific discussion regarding the prior art rejection involves the alleged lack of a "clutch failure sensor operatively connected to the clutch and the controller". However, such is a very broad recitation. The term "operatively connected" indicates that no structure or specific means are being recited and "failure" and "sensor" are broad terms that can read on the mere sight or sound of the door moving due to the clutch not working properly or can even be met by the door not moving when it is supposed to and someone assuming that the clutch is broken. Such visual or audible events constitute "alarms" since such is also clearly a broad limitation.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Blair M. Johnson  
Primary Examiner  
Art Unit 3634